

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Bethany Murray,

Plaintiff,

v.

American Express Company,

Defendant.

Civil Action No.: _____

COMPLAINT

For this Complaint, Plaintiff, Bethany Murray, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Bethany Murray ("Plaintiff"), is an adult individual residing in Myrtle Beach, South Carolina, and is a "person" as the term is defined by 47 U.S.C. § 153(39).
4. Defendant, American Express Company ("American Express"), is a Texas business entity with an address of 200 Vesey Street, Floor 30, New York, New York 10285-0002, and is a "person" as the term is defined by 47 U.S.C. § 153(39).

FACTS

5. Within the last year, American Express began calling Plaintiff's cellular telephone, number 843-xxx-2313.

6. When Plaintiff answered calls from American Express, she heard a prerecorded message.

7. On January 5, 2018, Plaintiff waited on the line for a live person who requested to speak to Mark.

8. Plaintiff advised American Express that it had the wrong number and, as such, demanded that all calls to her cease.

9. Nevertheless, American Express continued to place automated calls to Plaintiff's cellular telephone number.

COUNT I
VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

12. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF


WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 29, 2018

Respectfully submitted,

By 
Sergei Lemberg, Esq. (SL 6331)
LEMBERG LAW, L.L.C.
43 Danbury Road, 3rd Floor
Wilton, CT 06897
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
Attorneys for Plaintiff